

REMARKS

This Amendment and the following remarks are intended to fully respond to the Office Action mailed April 1, 2009, hereinafter "Office Action." In that Office Action claims 1-3, 5-8, and 64-70 were examined, and claims 1-3, 5-8, and 64-69 were rejected. More specifically, claims 1-3, 5-8, and 64-69 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Heredia (US Patent No. 6,219,045, hereinafter "Heredia") in view of Ulrich et al. (U.S. Patent No. 5,466,200, hereinafter "Ulrich"). The Office Action indicated that claim 70 is allowable.

Reconsideration of these rejections, as they might apply to the original and amended claims in view of these remarks, is respectfully requested.

In this Response, claims 1 and 8 have been amended and no claims have been cancelled or added. Thus, claims 1-3, 5-8, and 64-70 remain present for examination.

Claims Rejected Under 35 USC § 103

Claims 1-3, 5-8, and 64-69 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Heredia in view of Ulrich. Applicants respectfully traverse the § 103(a) rejections because either the Examiner failed to state a *prima facie* case of obviousness or the current amendments to the claims now render the Examiner's arguments moot. To establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), the references must teach or suggest all of the claimed limitations to one of ordinary skill in the art at the time the invention was made. M.P.E.P §§ 2142, 2143.03. Further, under *KSR Int'l Co. v. Teleflex, Inc.*, there "must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." 127 S. Ct. 1727, 1741 (2007). Neither Heredia nor Ulrich, either separately or in combination, teach or suggest all of the limitations of the recited claims.

Heredia relates to real-time synchronized voice communications during a multi-player game. A server is connected to a client computer and players. Players can speak

into a microphone and have their voice transmitted to all players or to a subset of all of the players. The voice communications are transmitted along with other game data. (*See* Heredia, Abstract). More specifically, the messages including voice data are transmitted with other data, such as other player input signals (from a joystick, a keyboard, and the like). (*See* Heredia, col. 2, ll. 49-52). All of the data (both game data and voice data) are transmitted over a network connecting the computers.

Heredia fails to teach the session topology of the audio session in said audio layer being different from the session topology of the data session in said session/transport layer, as recited in independent claim 1. Indeed, Heredia teaches an embodiment in which all data, voice or otherwise, is transmitted through a single network topology. More specifically, the topology in Heredia is one in which a number of client computers (such as clients A, B, C, and D of FIG. 1) are connected via a single server (E). This hub-and-spoke topology, as clearly demonstrated in FIGS. 1 and 3 of Heredia, is used to transmit *all* data. Thus, Heredia specifically teaches away from the feature of the session topology of the audio session in said audio layer being different from the session topology of the data session in said session/transport layer. Thus, Heredia fails to teach or suggest this feature.

Ulrich is directed to an “interactive exercise apparatus” that “engages a user’s mind and body.” (*See* Ulrich, Abstract). Several exercise devices are connected to a network to allow multiple users to exercise in the same simulated environment (*See* Ulrich, col. 5, l. 60 – col. 6, l. 1). A “hub 104” receives data transmitted from users over a “low-bandwidth channel,” and then broadcasts information to the users over a “high-bandwidth channel”. (*See* Ulrich, col. 9, ll. 26-44). As described in Applicant’s Amendment of January 6, 2009, Ulrich describes providing both voice and data communication over a phone line. Thus, Ulrich cannot possibly teach or suggest the session topology of the audio session in said audio layer being different from the session topology of the data session in said session/transport layer and fails to compensate for Heredia’s deficiency. Thus, independent claim 1 is allowable over the cited references.

Furthermore, Heredia and Ulrich, both in combination and separately, fail to teach or suggest wherein the audio layer exposes an application programming interface (API) to the session/transport layer to establish a link with the session transport layer. Indeed, there is no teaching whatsoever in either reference of expos[ing] an application programming interface (API) to the session/transport layer. Thus, for at least this additional reason, claim 1 is allowable over the cited reference.

For at least the same reasons as discussed with respect to claim 1, independent claim 8 is also allowable over the cited references. Independent claim 8 recites, *inter alia*, the session topology of the audio session in said audio layer being different from the session topology of the data session in said session/transport layer and wherein the audio layer exposes an application programming interface (API) to the session/transport layer to establish a link with the session transport layer. Thus, claim 8 is also allowable over the cited references.

For at least the forgoing reasons, neither Heredia nor Ulrich, alone or in combination, teach all of the limitations of independent claims 1 and 8. All other claims, *i.e.*, claims 2-3, 5-7, and 64-69 depend from one of the allowable independent claims and are, thus, also allowable over the cited references. Applicants respectfully request that the Examiner issue a notice of allowance, for all claims, at his earliest convenience.

Allowable Subject Matter

The Applicants thank the Examiner for the indication of claim 70 as being allowable subject matter.

Conclusion

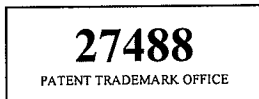
This Amendment fully responds to the Office Action mailed on April 1, 2009. Still, that Office Action may contain arguments and rejections that are not directly addressed by this Amendment due to the fact that they are rendered moot in light of the preceding arguments in favor of patentability. Hence, failure of this Amendment to directly address

an argument raised in the Office Action should not be taken as an indication that the Applicants believe the argument has merit. Furthermore, the claims of the present application may include other elements, not discussed in this Amendment, which are not shown, taught, or otherwise suggested by the art of record. Accordingly, the preceding arguments in favor of patentability are advanced without prejudice to other bases of patentability.

It is believed that no further fees are due with this Response. However, the Commissioner is hereby authorized to charge any deficiencies or credit any overpayment with respect to this patent application to deposit account number 13-2725.

In light of the above remarks and amendments, it is believed that the application is now in condition for allowance, and such action is respectfully requested. Should any additional issues need to be resolved, the Examiner is respectfully requested to telephone the undersigned to attempt to resolve those issues.

Date: July 1, 2009



Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gregory D. Leibold". The signature is fluid and cursive, with a large loop at the end.

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